

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4461 of 1981

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements?
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge? : NO

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H.K.SHAH

Versus

SECRETARY EDU.DEPARTMENT

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Appearance:

MR DEEPAK M SHAH for Petitioners  
MR VM PANCHOLI, AGP instructed by M/S MG  
DOSHI & CO for Respondent Nos. 1 & 2  
MR MUKESH R. SHAH for Respondent No. 4  
MR SN SHELAT for Respondent No. 5, 6, 7, 8, 9

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CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 02/07/1999

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioners were at the relevant time working as lecturers at Government Polytechnics in the State of Gujarat and except petitioner No. 9 all other petitioners, nine in number, have already retired by the time this petition has reached final hearing after a lapse of 18 years. The petition centers round the grievance made by the petitioners that although they possess the

diploma in Technical Teachers Training awarded by the Technical Teachers Training Institute at Bhopal which was set up by the Central Government and this qualification was considered by the All India Council for Technical Education to be equivalent to a degree in Engineering for all purposes, respondent No. 1 State of Gujarat has meted out arbitrary and discriminatory treatment to the petitioners by denying the petitioners their legitimate pay-scales from the date when they successfully completed the Technical Teachers Training (T.T.T) course at Bhopal until the petitioners were given their legitimate pay-scale with effect from 1.1.1986 and the further grievance being made by the petitioners is that the petitioners have been considered to be ineligible for promotion to the higher post of Head of the Department and the post of Principal at the Government Polytechnics inspite of the petitioners possessing the aforesaid qualification and inspite of the report of the All India Council for Technical Education (AICTE).

2. In its memorandum dated 25.7.1968 (Annexure "B" Pg.37) the Government of India in the Ministry of Education (Technical Division) through the Deputy Education Adviser (Technical) stated that the Government accepted the report dated 25.5.1968 of a Special Committee appointed by the All India Council for Technical Education to examine the recommendations of the Education Commission and to review the qualifications prescribed for various teaching posts in the Engineering Colleges and Polytechnics. The said memorandum dated 25.7.1968 addressed by the Dy. Education Adviser (Technical) to all the State Governments, all the Directors of Technical Education, all Engineering Colleges and all Polytechnics, is required to be quoted in its entirety as under :-

"At its 19th meeting held on 25 May, 1968 the All India Council for Technical Education, while considering a report of a Special Committee appointed by it to examine the recommendations of the Education Commission, again reviewed the qualifications prescribed for various teaching posts in the Engineering colleges and polytechnics. On the recommendations of the special committee the Council recommended the following qualifications for teachers in Engineering colleges and polytechnics.

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A. POLYTECHNICS.

B.

1. Principal. 1. Bachelor's Degree in  
Engg. of Technology or  
(equivalent) OR A M I E  
(by examinations) or  
T.T.T.I. Diploma.

2. 8 years professional  
and/or teaching  
experience.

3. Industrial experience  
preferable.

2. Head of the 1. Bachelor's Degree in  
Department Engg. or Tech. or  
Equivalent or AMIE (by  
examination) or TTTI  
Diploma.

2. Five years professional  
and/or teaching exp.

3. Industrial experience  
preferable.

3. Lecturer (Tech.) First Class Diploma in Engg.  
and TTTI Diploma Bachelor's  
degree in Engg. Tech (or  
equiv.) with 2 years  
Industrial Exp.

O R

A M I E (by examination)

The above recommendations of Council have  
been accepted by the Ministry of Education. It is  
requested that these qualifications recommended by  
the Council may kindly be kept in view for  
recruitment to the various posts in the Engg.  
Colleges and Polytechnic."

The above recommendations made by the Council were  
reviewed at its meeting held on 23.9.1969 and it was  
recommended that for the post of lecturer in technical  
subjects in polytechnics, the present qualification should  
be revised to second class diploma with two years teaching

or industrial experience plus a Diploma of a Technical Teachers Training Institute. The Council also decided that in addition to A.M.I.E. the membership examination of other recognized professional bodies should also be prescribed as an alternative qualification in the appropriate fields. The said recommendations were also accepted by the Government of India in the Ministry of Education. The Government of India further requested the State Governments and Directors of Technical Education and all Polytechnics to prescribe the said revised qualifications recommended by the Council for the posts of lecturers in Polytechnics as per its memorandum dated 28.11.1969 (Annexure "D" Pg. 41).

3. The aforesaid Technical Teachers Training course was started by Western Regional Institute for Technical Teachers Training at Bhopal which was an autonomous organization sponsored by the Ministry of Education, Government of India. The training commenced in 1968. In the prospectus issued by the said Institute for the year 1968-69 (Annexure "A" to the petition) it was noted that the rapid development of Technical Education during the last decade (prior to 1968) had created a serious situation, where teachers of right calibre and in required numbers for Diploma Institutions were not available. To make up the above deficiency and to meet the requirements of the Fourth Five Year Plan and subsequent plans, the Government of India in the Ministry of Education had, on the recommendations of the All India Council for Technical Education, established four Regional Institutes for training of Technical Teachers for Polytechnics towards the end of the Third Plan of which Western Regional Institute, Bhopal was one. The Western Regional Institute at Bhopal had a governing body of which the Director of Technical Education, Gujarat State was also a member. The courses and their duration at the above Institute were prescribed as under :-

"The Institute offers training courses for

- (1) Engineering Graduates, and
- (2) Diploma Holders in Engineering

The duration of courses are

- (1) For Engineering Graduates - 18 months
- (2) For Diploma Holders in Engineering - 30 months

The Training Programme for Engineering

Graduates include Supervised Practical Training of one year of two semesters duration following by six months or one semester of Pedagogical Training including Practice Teaching.

The Training Programme for Diploma Holders

include studies in basis sciences; technical skill subject specialization, Pedagogical Training including practice teaching and Supervised Practical Training.

The duration of these studies are :-

- (i) Basic Sciences and Technical skill-One Semester.
- (ii) Subject speciality or content training - One Semester
- (iii) Pedagogical Methods including Practice Teaching - One Semester
- (iv) Practical Training - Two Semesters.

Each semester comprises of not less than 110 working days.

The entire training is suitably sandwiched to fulfil the most important requirement of technical teachers viz. technical ability with appropriate industrial experience combined with necessary training in Pedagogical methods."

(emphasis supplied)

The admission qualifications and mode of admission were as under :-

Diploma Holders : First Class Diploma in appropriate branch of Engineering awarded by the State Board of Technical education or any other recognized body.

In the case of sponsored candidates only, the required qualification may be relaxed to Second Class Diploma if the candidate has experience in teaching for a minimum period of two years.

In either case the candidate

must have passed the whole examination in one attempt.

Graduates : At least a Second Class

Degree in the appropriate branch of Engineering of a recognized University. The candidate must have passed the whole examination in one attempt.

The teacher trainees will be sponsored by

the State Governments and privately managed Diploma Institutions in the Western Region comprising the States of Madhya Pradesh, Maharashtra, Gujarat and Goa. The allocation of seats amongst the various constituent States is as under :-

Madhya Pradesh : 30 Seats

Maharashtra : 14 Seats

Gujarat : 14 Seats

Goa : 2 Seats

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Total : 60 Seats

Seats remaining unfilled due to non-sponsoring of requisite number candidates may be offered to candidates from open market."

The institute also provided monthly stipend to candidates sponsored by the State Governments to the tune of Rs. 400/- per month in case of Graduates and Rs.250/- per month in case of Diploma Holders.

4. On 30.7.1968, the State of Gujarat issued a Resolution sanctioning the deputation of 10 Heads of Departments and/or Lecturers in the various Government Polytechnics for training at the Western Regional Institute for Technical Teachers Training during the year 1968-69 on certain terms and conditions. Condition No. 1 provided for the duration of training which was 18 months for Engineering degree holders and 30 months for diploma holders. It was also specifically provided as under :-

"The persons to be deputed should be treated as on duty during the entire period of training. They should be allowed to draw full pay and allowances i.e. the pay in the pay scale of the post held by them plus dearness allowance but no other special

pay or house rent allowance and compensatory local allowance."

Two petitioners were deputed for the aforesaid Technical Teachers Training in the first batch of 1968-69 and the other petitioners were deputed in the subsequent batches.

5. On 28.9.1973, the Director of Technical Education, Gujarat State addressed a communication to the Principal, Government Polytechnic at Ahmedabad that it was decided at the meeting of the Principals of the Government Polytechnics with the Secretary, Education and Labour Department that the teachers who were Diploma Holders should be trained for Technical Teachers Training at Bhopal and/or for respective degree in Engineering by way of part time degree courses running at L.D. College of Engineering, Ahmedabad. It was further mentioned in the said letter that all the Diploma Holders should be asked to register themselves with part-time degree courses at L.D. College of Engineering, Ahmedabad in their respective branches and that if they fail to do so, they will be transferred from Ahmedabad to the junior polytechnics and other staff members interested and willing to undergo degree courses will replace the persons who refused to join the courses and such persons refusing to undergo the course will not be continued at Ahmedabad.

6. It appears that some of the petitioners who had obtained Technical Teachers Training diploma from the Institute at Bhopal made representations to the State Government to treat them as equivalent to the degree holders for the purpose of pay-scale and promotion. Such representations were made in October, 1972 to the Director of Technical Education. However, the Director of Technical Education rejected such representations. Some of the petitioners, therefore, made a representation to the State Government in the year 1973 for treating the T.T.I. diploma holders equivalent to degree holders. The State Government through the Principal of Government Polytechnic replied on 6.4.1973 (Pg. 74) that since the Pay Commission was already constituted, the petitioners may submit their representation to the State Pay Commission. The petitioners submitted representation dated 10.7.1973 to the Gujarat State Pay Commission (Pg. 75). It is the case of the petitioners that the said representation was not considered or dealt with by the State Pay Commission on the ground that that was a matter to be decided by the Government and not by the Pay Commission.

7. It appears that in the year 1980-81, the State Government established a large number of Government Polytechnics in addition to the existing six Government Polytechnics in the State with the result that 29 posts of Heads of Departments were to be filled in from out of the lecturers at the Government Polytechnics in the State. Some of the petitioners, therefore, made a representation to consider the petitioners eligible for such promotions. However, their case was not being considered and, therefore, the petitioners all of whom possessed the qualification of Diploma in Engineering with the Diploma in Technical Teacher Training from Bhopal filed the present petition in the year 1981 for the following reliefs :-

- (a) To quash the Recruitment Rules for Class-I, II and III posts and to direct the respondents to frame the Recruitment Rules according to law and in accordance with the directives of the Central Government.
- (b) To direct the respondents to treat the T.T.I. Holders equivalent to the holders of A.M.I.E. degrees or Post Diploma Degree Course for the purpose of recruitment, promotion and pay-scale and to direct the respondents to give the persons possessing the Diploma in Engineering and T.T.I. qualifications the pay-scales, promotion and other benefits by treating them as equivalent to degree holders.
- (c) To direct the respondents to pay the petitioners amount of stipend for the period of training at Bhopal.

During pendency of the petition, the petitioners also prayed for interim injunction to restrain the respondents from giving any promotion to the petitioners' juniors in the cadre of lecturers to the newly created 29 Class-I posts of Heads of Departments at various Government Polytechnics.

While admitting the petition, this Court directed that promotions and appointments shall abide by the result of the petition.

8. In response to the notice issued by this Court, affidavit in reply has been filed by the Administrative Officer in the Office of the Directorate of Technical Education. Second affidavit in reply is filed by the then Joint Director of Technical Education and the third



affidavit in reply is filed by the present Joint Director of Technical Education today. The gist of the submissions made in the aforesaid affidavits is as under :-

8.1 As far as the petitioners' claim for pay-scale is concerned, since they are already granted the benefit of the pay-scale of lecturers (Senior Scale) or lecturers (Selection Grade) since 1.1.1986, that part of the grievance would not survive.

8.2 The appointment and promotion to the post of Head of the Department at Government Polytechnics is governed by the Recruitment Rules contained in Notification dated 20.1.1966 applicable to Government Polytechnic at Ahmedabad and extended to all Polytechnics by notification dated 17.5.1971 at Annexure "H" (Pg. 78). As per the Recruitment Rules, to be eligible for appointment by direct selection or by promotion candidate must possess a degree in the corresponding branch of Engineering of a recognized University at least in the second class or post-graduate degree in the corresponding branch of Engineering with the stipulated experience in a position of professional responsibility or five years teaching experience in a degree Engineering College or seven years teaching experience in a diploma Engineering Institute.

Since the Recruitment Rules are framed in exercise of the powers conferred by the proviso to Article 309 of the Constitution and since the petitioners do not possess the qualification of a degree in Engineering as prescribed by the statutory Recruitment Rules, the petitioners have no right to be considered for promotion to the post of Head of the Department.

8.3 The petitioners' contention that diploma in T.T.I. is equivalent to a degree in Engineering cannot be accepted because neither the State Government nor the Gujarat University have accepted the diploma in T.T.I. as equivalent to a degree in Engineering.

8.4 Diploma in T.T.I. was merely concerned with the teaching methods and it did not make the diploma holders equivalent to degree holders and that is why even the degree holders were also eligible to undergo training at the above course conducted by the Institute at Bhopal.

8.5 The Government had already prescribed post-diploma degree course at the L.D. College of Engineering and it was open to the petitioners to undergo studies for such degree course and make themselves eligible for further promotions. Since all the petitioners did not avail of the said benefit, the petitioners have no right to make

any grievance.

9. At the hearing of the petition, the learned counsel for the petitioners has submitted as under :-

9.1 In view of the decision of the Government of India based on the report of the All India Council for Technical Education that the TTTI Diploma shall be considered as sufficient qualification for the posts of Lecturer, Head of the Department and even Principal, the stand of the respondents was indefensible.

9.2 The Recruitment Rules on which reliance is placed by the respondents were framed on 20.1.1966 for the Government Polytechnic at Ahmedabad and by Government Notification dated 17.5.1971 they were merely extended to the other Government Polytechnics. However, the report of the Special Committee appointed by the All India Council for Technical Education and acceptance thereof by the said Council and also by the Government of India in the Ministry of Education came subsequently in 1968. The Government of Gujarat itself having deputed its officers including diploma holders like the petitioners for undergoing the Technical Teachers Training course at Bhopal and the Director of Technical Education himself having been a member of the governing body of the Western Regional Institute for Technical Teacher Training at Bhopal, the Government was bound to follow the decision of the Government of India and the recommendations of the All India Council for Technical Education. Merely because the Government as a rule making authority did not care to apply its mind to the aforesaid decision of the Govt. of India, much less to the rights of the petitioners, the petitioners could not have been denied their legitimate pay-scales and also promotions to the higher posts by not treating the petitioners as equivalent to degree holders.

9.3 Even diploma holders who did not obtain any further degree in Engineering but who possessed the qualification of A.M.I.E. have also been considered to be eligible not only for the regular pay-scale but also for promotion to the higher posts of Head of the Department and Principal and that such persons have in fact been promoted. For instance, petitioner No. 4 J.N. Joshi was permitted to prosecute post-graduate studies for Master of Engineering (M.E) degree on the strength of his qualifications of A.M.I.E. and he has also been promoted as Professor prior to his retirement in 1996. Similarly, petitioner No. 7 D.D. Chavda was promoted as Head of the Department in 1990 on the strength of his possessing the qualification of A.M.I.E. It is, therefore, clear that

the respondent authorities themselves have considered that the Bachelor's degree in engineering was not the only requisite degree, but alternative qualifications like AMIE were permissible. In fact, the Government of India Memorandum dated 28.11.1969 (Annexure "D") treated B.E. and AMIE as qualifications alternative to TTTI Diploma.

9.4 Both the post-diploma degree course at the L.D. College of Engineering as well as the diploma in T.T.I. Course at Bhopal were started in 1968. The post-diploma degree course could be pursued by only those lecturers who were posted at Government Polytechnic at Ahmedabad, as it was a part time degree course conducted only at the L.D. College of Engineering at Ahmedabad which is run by the State Government. Hence, other lecturers outside Ahmedabad did not have the opportunity to register themselves for such post-diploma degree course. Moreover, the lecturers to be deputed for the diploma in T.T.I. Course at Bhopal were to be selected by the State Government as 14 seats were reserved for the State of Gujarat. Since the All India Council for Technical Education had already recommended and the Government of India had already accepted the said recommendation that persons with a diploma in Engineering followed by a diploma in T.T.I. would be eligible for promotion to the higher posts, the petitioners had opted to go for the diploma in T.T.I. at Bhopal. The very fact that the State Government had sent the petitioners on study leave with full salary and allowances shows that the State Government also considered the aforesaid training course of such importance that the petitioners and others, who had shown their willingness for being deputed to the course at Bhopal were sent for such training at the Government cost. It was only when the State Government took up an unreasonable stand and started considering the petitioners ineligible for promotions that after filing of the petition two of the petitioners (nos. 2 and 9) could succeed in getting appointment at Ahmedabad and admission to post-diploma degree course and that three other petitioners undertook studies for the A.M.I.E. Course (Associate Membership of the Institute of Engineers of Calcutta).

10. The learned AGP has reiterated the submissions made in the reply affidavits and has submitted that whether a particular qualification should be considered as sufficient for promotion to higher posts or whether it should be treated as equivalent to another qualification is a policy matter and cannot be subject matter of judicial review.

11. Having heard the learned counsel for the parties, the Court finds that there is considerable force in the submissions urged on behalf of the petitioners. It is true that ordinarily when appointment to a post, and that too an academic post, is governed by the Recruitment Rules, the Recruitment Rules prevail and the Court is not to interfere with decision of the authorities based on such Recruitment Rules. However, the facts which stare in one's face are as under :-

- (i) All India Council for Technical Education, the Apex National Body for Technical Education set up by Government of India recommended that four Western Regional Institutes be set up for imparting Technical Teachers Training for a period of 30 months in the case of diploma holders and for a period of 18 months in case of degree holders and that such diploma holders, even if they did not possess a degree in Engineering but possessed a diploma in Engineering followed by a diploma in T.T.I. be considered eligible for promotion from the posts of lecturers in the Government Polytechnics to the higher posts - Head of the Department as well as Principle.
- (ii) By memorandum dated 25.7.1968 (Annexure "B") and 28.11.1969 (Annexure "D"), the Government of India, Ministry of Education (Technical Division) accepted the above recommendations and a quota of 14 seats was allotted to the Gujarat State.
- (iii) The Director of Technical Education, Gujarat State was himself one of the members of the governing body of the Western Regional Institute at Bhopal where the course in T.T.I. was being run.
- (iv) By Government Resolution dated 30.7.1968, the State of Gujarat sanctioned the deputation of 10 Heads of the Departments and/or lecturers in various Government Polytechnics for undergoing the above training of 18 months for degree holders and 30 months for diploma holders with full pay and allowances to be drawn by the Heads of the Departments/lecturers who were so deputed.

Subsequently also the Government of Gujarat itself had deputed the lecturers at the Government Polytechnics like some of the petitioners for undergoing such training.

(v) The State Government had never applied its mind to the question of amendment of the Recruitment Rules for the posts of Heads of the Departments at Government Polytechnics in light of the memorandums of the Government of India. The Government had framed the Recruitment Rules in 1966 and thereafter never reexamined them in light of the report of the All India Council for Technical Education which was accepted by the Government of India in the Ministry of Education (Technical Division) and on the basis of which the entire training course was commenced.

(vi) The All India Council for Technical Education had recommended that the qualification of A.M.I.E. (by Examination) as well as T.T.I. diploma were to be considered as equivalent or at least alternative to Bachelor's Degree in Engineering not only for appointment to the post of lecturers (Technical) at the Government Polytechnics but also for promotion only to the post of Head of the Department and Principal. The State Government has considered the diploma holders with A.M.I.E. eligible for promotion to all such higher posts, but diploma holders with further diploma in T.T.I. are not considered as eligible.

(vii) With effect from 1.1.1986, the State Government has given the same pay-scale/s to all the lecturers including diploma holders, whether in Senior Scale or in Selection Grade.

12. In view of the aforesaid glaring facts, it is not possible to accept the contention of the respondents that because the Recruitment Rules have not been amended, the petitioners have no case. The petitioners' challenge to the constitutionality of the Recruitment Rules itself is on the touch stone of Articles 14 and 16 of the Constitution. There is no affidavit in reply from the State Government. Nothing is brought on record to show whether any attempt was made by the State Government to consider, in light of the report of the All India Council for Technical Education, whether persons with diploma in Engineering and followed by diploma in T.T.I at Bhopal could be considered to be equivalent to degree holders in Engineering or if not equivalent, whether they should be considered to be eligible for promotion to the higher post of Head of the Department and Principal at Government Polytechnics. While it is true that it is open to the Government to prescribe different pay-scales depending on the nature of qualifications and that generally degree

holders are placed in higher pay-scale than the diploma holders and that the Courts cannot treat such differentiation as discriminative violation of Article 16 of the Constitution, the fact that the post diploma degree course could be pursued only by those polytechnic lecturers who happened to get a posting at the Government Polytechnic at Ahmedabad and the post graduate diploma course at the Government Engineering College at Ahmedabad on the one hand and the diploma course in T.T.I. at the institute at Bhopal established by the Government of India under the recommendations of the All India Council for Technical Education on the other hand commenced simultaneously and that the diploma holders were required to undergo training for 30 months as against 18 months training for the degree holders and also in view of the fact that AMIE (Associate Membership of Institute of Engineers) which is also considered by the Government of India in the Ministry of Education (Technical Division) and All India Council for Technical Education as equivalent to T.T.I. diploma and that the State of Gujarat has also considered AMIE as equivalent to degree course for the purpose of conferring eligibility on lecturers at Government Polytechnics, and that no defence is coming forth for this discrimination in not considering the petitioners with diploma in Engineering and with further diploma in T.T.I. as eligible for the higher posts of Head of the Department and Principal at the Government Polytechnics where the petitioners were rendering services as lecturers, it must be held that the petitioners have been meted out arbitrary and discriminatory treatment in violation of fundamental rights under Articles 14 and 16 of the Constitution. It will, therefore, have to be held that the petitioners were entitled to be treated as eligible for promotion to the higher posts of Head of the Department/Principal at the Government Polytechnics on the strength of their qualifications of diploma in Engineering followed by diploma in T.T.I. imparted by the institute at Bhopal as recommended by the AICTE and accepted by the Government of India in the Ministry of Education with effect from the date when the persons juniors to the petitioners were considered for promotion to the higher post of Head of the Department/Principal.

13. However, the petitioners' prayer that the petitioners be paid higher pay-scale with effect from the date of completion of their T.T.I. at the aforesaid Institute cannot be accepted since difference in pay-scales is permissible on the basis of the qualifications. There would be no inconsistency between these findings because even when diploma holders are

granted lower pay-scale, they are very often considered to be eligible for promotion to the higher posts. Here, the additional factor available to the petitioners is that over and above the diploma, they have obtained the qualification of diploma in T.T.I. which is considered not only by the All India Council for Technical Education, but also by the Government of India in the Ministry of Education (Technical Division) as sufficient for promotion to the higher posts of Head of the Department and Principal. The All India Council for Technical Education was set up in 1945 as a National Expert Body to advise the Central and the State Governments for ensuring the development of technical education in accordance with proved standards. The petitioners are, therefore, justified in contending that the State Government cannot take up the stand that the recommendations of the All India Council for Technical Education and the decision of the Government of India in the Ministry of Education are not binding. At least the State Government must give cogent reasons why the State Government has not even chosen to consider the report of the All India Council for Technical Education and the decision of the Government of India for considering diploma holders with diploma in T.T.I. as eligible for promotion to the higher post especially when the other alternative qualification of post-diploma degree course was available at the relevant time only at the Government Engineering College at Ahmedabad and, therefore, the lecturers who were posted at the Government Polytechnics at other places did not have an opportunity to improve their qualifications by obtaining the PDTC degree.

14. The next question is as to what reliefs should be granted. It is true that if this petition had been decided very soon or within a reasonable time after filing of the petition, the petitioners would have got the benefit and would have secured promotions to the higher posts and started drawing salaries in the higher posts. The delay of 18 years cannot, therefore, work to the prejudice of the petitioners, but at the same time the benefit need not be given for the period prior to the date of filing the petition. Moreover, these benefits will be available to only those lecturers who were appointed and had obtained the diploma in Technical Teachers Training prior to the date of filing of the petition i.e. 11.11.1981.

15. As far as the prayer made by the petitioners to pay them the amount of stipend together with interest is concerned, according to the petitioners 50% of the stipend was already paid by respondent No. 4 but the balance 50%

of the stipend amount was not paid. The Court is not inclined to grant that relief in view of the fact that the petition was filed after a period of about 10 years from expiry of the period for which the petitioners claim to be entitled to the stipend amount. Hence, prayer (C) is not granted.

16. The petition is partly allowed. Respondent Nos. 1 and 2 are directed to consider the petitioners and other diploma holders with T.T.I. as eligible for promotions to the posts of Head of the Department and Principals at the Government Polytechnics and to consider their case for promotions to the higher posts with effect from the date their respective immediate juniors in the cadre of Assistant Lecturers/Lecturers were promoted to the higher posts. Those who are so promoted to the higher posts will be entitled to have their pay and allowances fixed on the basis of such deemed date of promotion and they will be paid the arrears of difference of salary and the allowances on that basis with effect from the date of filing of the petition (i.e. with effect from 11.11.1981) or the deemed date of promotion, whichever is later.

These directions shall be carried out and the amount of arrears of difference of salary as directed above shall be paid by respondent Nos. 1 and 2 to the petitioners within four months from the date of receipt of the writ of this Court or a certified copy of this judgement, whichever is earlier.

17. The petition is accordingly partly allowed in the aforesaid terms with no order as to costs.

July 2, 1999 (M.S. Shah, J.)

sundar/-